Michigan Department of Civil Service

REGULATION

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CS-6940	March 18, 2001	Drug Testing	**2.07**
Issuing Bureau:	**Rule Reference:**		**Replaces:**
Executive	2-7 (Drug and Alcohol Testing)		Reg. 1.05 (CS-6884, Aug. 1, 1998)
Subject:			
DRUG TESTING			

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1 APPLICABILITY

1.1 Executive Agencies. These regulations apply to all executive agencies of the State of Michigan.

1.2 Civil Service Rules. These regulations apply to drug testing conducted under civil service rule 2-7 [Drug and Alcohol Testing]. These regulations are also applicable to employees subject to mandatory Federal drug testing, as provided in civil service rule 2-7.8.

1.3 Collective Bargaining. These regulations do **not** apply to drug testing conducted under the provisions of a collective bargaining agreement approved by the civil service commission, unless otherwise provided in the collective bargaining agreement.

1.4 Deviations. Appointing authorities may not deviate from the provisions of these regulations without the written approval of the state personnel director. In requesting approval for a deviation, an appointing authority must petition the director in writing and describe the specific provision or provisions for which a deviation is sought and the rationale for the proposed deviation. The director may approve the request upon a finding of good cause as determined by the director.

1.5 Preappointment Drug Testing of Current Employees. Under civil service rules 2-7.2(a)(2) and 2-7.4(b), a current employee not in a test-designated position who is later selected for a test-designated position must pass a preappointment drug test before starting in the test-designated position. If there is no history of actual or suspected drug or alcohol problems during the employee's tenure as a state employee, an appointing authority may rely on the following to satisfy the preappointment drug testing requirement:

(a) Use of prior drug test. The preappointment testing requirement may be satisfied if the employee passed another state drug test (e.g., preemployment or random drug test) any time during the previous five-year period of continuous employment with the state.

(b) Temporary assignment to test-designated position. If an employee is assigned to perform temporarily the duties of a test-designated position and has not passed a state drug test as provided in subsection (a), the employee shall submit to a drug test no later than 11 work days after the employee begins performing the test-designated duties. In addition, the employee shall be placed in

the pool for random testing during the period the employee is temporarily performing duties of a test-designated position.

2 DEFINITIONS

2.1 ***Aliquot*** means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

2.2 ***Calibrator*** means a solution of known concentration used to calibrate a measurement procedure or to compare the response obtained with the response of a test specimen/sample. The concentration of the analyte of interest in the calibrator is known to be within limits ascertained during its preparation. Calibrators may be used to establish a calibration curve over a range of interest.

2.3 ***Certifying scientist*** means an individual with at least a bachelor's degree in the chemical or biological sciences, or medical technology or equivalent, who reviews all pertinent data and quality control results. The individual shall have training and experience in the theory and practice of all methods and procedures used in the laboratory, including a thorough understanding of chain of custody procedures, quality control practices, and analytical procedures relevant to the results that the individual certifies. Relevant training and experience shall also include the review, interpretation, and reporting of test results; maintenance of chain of custody; and proper remedial action to be taken in response to test systems being out of control-limits or detecting aberrant test or quality control results.

2.4 ***Chain of custody*** means the procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

2.5 ***Collection site*** means a place designated by the appointing authority where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

2.6 ***Collection site person*** means a person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals.

2.7 ***Confirmatory test*** means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (NOTE: At this

time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

2.8 ***Control*** means a sample used to monitor the status of an analysis to maintain its performance within desired limits.

2.9 ***Donor*** means the individual from whom a urine specimen is collected.

2.10 ***Initial test*** (also known as ***screening test***) means an immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing.

2.11 ***Laboratory chain of custody form*** means the form(s) used by the testing laboratory to document the security of the specimen and all aliquots of the specimens during testing and storage by the laboratory. The form, which may account for an entire laboratory test batch, shall include the names and signatures of all individuals who accessed the specimens or aliquots and the date and purpose of the access.

2.12 ***Medical review officer (MRO)*** means a licensed physician responsible for receiving laboratory results generated by an agency's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an employee's positive test result together with the employee's medical history and any other relevant biomedical information.

2.13 ***On duty*** means being engaged in, or on-call to be engaged in, the performance of work responsibilities for the employer.

2.14 ***Quality control sample*** means a sample used to evaluate whether or not the analytical procedure is operating within predefined tolerance limits. Calibrators, controls, negative urine samples, and blind samples are collectively referred to as "quality control samples" and each as a "sample."

2.15 ***Reason to believe*** means a reason to believe that a particular individual may alter or substitute the urine specimen.

2.16 ***Refusal to submit to a drug test*** means any of the following:

(a) Failing to provide an adequate urine sample without an adequate medical explanation.

(b) Engaging in conduct that obstructs the testing process.

(c) Refusing to be tested.

2.17 ***Sample*** means a representative portion of a urine specimen or quality control sample used for testing.

2.18 ***Specimen*** means the portion of urine that is collected from a donor.

2.19 ***Serious work accident*** means an on-duty accident or incident resulting in death, or serious personal injury requiring immediate medical treatment, that arises out of any of the following:

(a) The operation of a motor vehicle.

(b) The discharge of a firearm.

(c) A physical altercation.

(d) The provision of direct health care services.

(e) The handling of dangerous or hazardous materials.

2.20 ***Specimen chain of custody form*** means a form used to document the security of the specimen from time of collection until receipt by the laboratory. This form, at a minimum, shall include specimen identifying information, date and location of collection, name and signature of collector, name of testing laboratory, and the names and signatures of all individuals who had custody of the specimen from time of collection until the specimen was prepared for shipment to the laboratory.

2.21 ***Standard*** means a reference material of known purity or a solution containing a reference material at a known concentration.

3 DRUGS INCLUDED

3.1 Drugs Included. Civil service rule 9-1 defines “drugs” as those included in Schedule 1 or 2 of the Michigan controlled substances act (MCSA), MCL 333.7201, *et seq*. Hundreds of drugs are covered under Schedules 1 and 2, but it is not feasible to test routinely for all of them. When a drug test is required, an appointing authority shall test for marijuana, cocaine, opiates, amphetamines, and phencyclidine. In addition, when conducting reasonable suspicion or post-accident drug testing, an agency may test for

any drug listed in Schedule 1 or 2 of the MCSA. However, before an agency tests for other drugs, it must obtain approval from the state personnel director. An agency requesting approval shall submit to the state personnel director the agency's proposed initial test methods, testing levels, and proposed performance test program.

3.2 Other Laws. These regulations are not intended to limit any agency which is specifically authorized by law to include additional categories of drugs in the drug testing of its own employees.

4 SPECIMEN COLLECTION PROCEDURES

4.1 Designation of Collection Site. The state drug testing program shall have one or more designated collection sites which have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory.

4.2 Security. Procedures shall provide for the designated collection site to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during drug testing.

4.3 Chain of Custody. Chain of custody forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

4.4 Access to Authorized Personnel Only. No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored.

4.5 Privacy. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular donor may alter or substitute the specimen to be provided.

4.6 Integrity and Identity of Specimen. Procedures shall be implemented at the collection site to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the specimen chain of custody form can identify the donor

from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

(a) To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. There shall be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs.

(b) When a donor arrives at the collection site, the collection site person shall request the donor to present photo identification. If the donor does not have proper photo identification, the collection site person shall contact the supervisor of the donor, the coordinator of the drug testing program, or any other agency official who can positively identify the donor. If the donor's identity cannot be established, the collection site person shall not proceed with the collection.

(c) If the donor fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

(d) The collection site person shall ask the donor to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the donor's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The donor may retain his or her wallet.

(e) The donor shall be instructed to wash and dry his or her hands prior to urination.

(f) After washing hands, the donor shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials which could be used to adulterate the specimen.

(g) The collection site person shall give the donor a clean specimen bottle or specimen container. The donor may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.

(h) The collection site person shall note any unusual behavior or appearance on the specimen chain of custody form.

(i) In the exceptional event that a designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., an accident investigation), a public rest room may be used according to the following procedures: A person of the same gender as the donor shall accompany the donor into the public rest room which shall be made secure during the collection procedure. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the donor not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the donor will be instructed to flush the toilet and to participate with the collection site person in completing the chain of custody procedures.

(j) Upon receiving the specimen from the donor, the collection site person shall determine the volume of urine in the specimen bottle/container.

(1) If the volume is greater than 45 milliliters (mL), the collection site person will proceed with step (k) below.

(2) If the volume is less than 45 mL and the temperature is within the acceptable range specified in step (m) below, the specimen is discarded and a second specimen shall be collected.

(i) The donor may be given a reasonable amount of liquid to drink for this purpose (e.g., an 8-oz glass of water every 30 minutes, but not to exceed a maximum of 40 oz).

(ii) If the donor fails for any reason to provide 45 mL of urine for the second specimen collected, the second specimen shall be discarded, the testing discontinued, and the appointing authority notified. The MRO shall refer the donor for a medical evaluation to develop pertinent information concerning whether the donor's inability to provide a specimen is genuine or constitutes a refusal to submit to a test. Upon completion of the examination, the MRO shall report the MRO's conclusions to the appointing authority in writing.

(iii) If a donor fails to submit an adequate sample during a preemployment drug test, the appointing authority may rescind the conditional offer of employment and the MRO is not required to refer the donor for a medical evaluation.

(3) If the volume is less than 45 mL and the temperature is outside the acceptable range specified in step (m) below, a second specimen shall be collected using the procedure specified in step (m) below.

(k) After the specimen has been provided and submitted to the collection site person, the donor shall be allowed to wash his or her hands.

(l) Immediately after the specimen is collected, the collection site person shall measure only the temperature of the specimen. The temperature-measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed 4 minutes.

(m) If the temperature of the specimen is outside the range of 32°- 38° C (90°- 100° F), that is a reason to believe the donor may have altered or substituted the specimen. Another specimen shall be collected under the direct observation of a person of the same gender, and both specimens shall be forwarded to the laboratory for testing. A donor may volunteer to have his or her oral temperature taken to provide evidence to counter the reason to believe the donor may have altered or substituted the specimen caused by the specimen's temperature falling outside the prescribed range.

(n) Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the specimen chain of custody form.

(o) All specimens suspected of being adulterated or diluted shall be forwarded to the laboratory for testing.

(p) If there is reason to believe that the donor may alter or substitute the specimen provided, the specimen shall be obtained under the direct observation of a person of the same gender. When there is any reason to believe that a donor may have altered or substituted the specimen provided, another specimen shall be obtained as soon as

possible under the direct observation of a person of the same gender, and both specimens shall be forwarded to the laboratory for testing.

(q) The sample shall be divided into two specimen bottles, as provided in section 4.8 of this regulation.

(r) Both the donor and the collection site person shall keep the specimen bottle/container in view at all times prior to its being divided, sealed, and labeled. If the specimen is transferred from a specimen container to a specimen bottle, the collection site person shall request the donor to observe the transfer of the specimen and the placement of the tamper-evident seal/tape on the bottle. The tamper-evident seal may be in the form of evidence tape, a self-sealing bottle cap with both a tamper-evident seal and unique coding, cap and bottle systems that can only be sealed one time, or any other system that ensures any tampering with the specimen will be evident to laboratory personnel during the accessioning process.

(s) The collection site person and the donor shall be present at the same time during procedures outlined in paragraphs (t) through (w) of this section.

(t) The collection site person shall place securely on the specimen bottle an identification label that contains the date, the donor's specimen number, and any other required identifying information.

(u) The donor shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him or her.

(v) The collection site person shall enter on the specimen chain of custody form all information identifying the specimen.

(w) The donor shall be asked to read and sign a statement on the specimen chain of custody form certifying that the specimen identified as having been collected from him or her is, in fact, that specimen he or she provided.

(x) The collection site person shall complete the specimen chain of custody form.

(y) The urine specimen and specimen chain of custody form are now ready for shipment. If the specimen is not immediately prepared for

shipment, it shall be appropriately safeguarded during temporary storage.

(z) While any part of the above chain of custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If the involved collection site person leaves his or her work station momentarily, the urine specimen and specimen chain of custody form shall be taken with him or her or shall be secured. After the collection site person returns to the work station, the custody process will continue. If the collection site person is leaving for an extended period of time, the specimen shall be packaged for mailing before he or she leaves the site.

4.7 Collection Control. To the maximum extent possible, collection site personnel shall keep the donor's specimen bottle within sight both before and after the donor has urinated. After the specimen is collected, it shall be properly sealed and labeled. A specimen chain of custody form shall be used for maintaining control and accountability of each specimen. The date and purpose shall be documented on a specimen chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

4.8 Split Specimens Required. A split specimen method of collection shall be used. The following procedure shall be used to split the urine into two specimen bottles (referred to as *Bottle A* and *Bottle B*):

(a) The donor shall urinate into either a specimen bottle or a specimen container. The collection site person, in the presence of the donor, after determining the specimen temperature, pours the urine into two specimen bottles that are labeled *Bottle A* and *Bottle B* or, if *Bottle A* was used to collect the specimen, pours an appropriate amount into *Bottle B*. A minimum of 45 mL of urine is required, i.e., 30 mL for *Bottle A* and 15 mL for *Bottle B*.

(b) The *Bottle A* specimen, containing a minimum of 30 mL of urine, is to be used for the drug test.

(c) A minimum of 15 mL of urine shall be poured into the second specimen bottle (*Bottle B*).

(d) All requirements of this part shall be followed with respect to *Bottle A* and *Bottle B*, including the requirements that a copy of the chain of

custody form accompany each bottle processed under split sample procedures.

(e) The collection site shall send the split specimens (*Bottle A* and *Bottle B*) at the same time to the laboratory that will be testing the *Bottle A* specimen.

(f) If the test of the first specimen bottle (*Bottle A*) is verified positive by the MRO, the MRO shall contact the donor to determine if there is an explanation for the positive test as provided in Part 6 of these regulations. Only the donor may request, through the MRO, that the second specimen bottle (*Bottle B*) be tested for presence of the drug(s) for which a positive result was obtained in the test of the first specimen bottle (*Bottle A*). The MRO shall honor such a request if it is made within 72 hours of the donor's having received notice that he or she tested positive. The donor shall be responsible for the cost of testing *Bottle B.* The result of this test is transmitted to the MRO without regard to the cutoff levels used to test the first specimen bottle (*Bottle A*).

(g) If the result of the test on the second specimen bottle (*Bottle B*) fails to reconfirm the result reported for *Bottle A*, the MRO shall void the test result for *Bottle A* and no positive test result shall be reported.

4.9 Transportation to Laboratory. Collection site personnel shall arrange to ship the collected specimens to the drug testing laboratory. The specimens shall be placed in containers designed to minimize the possibility of damage during shipment (for example, specimen boxes or padded mailers), and those containers shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the specimen chain of custody form is enclosed within each container sealed for shipment to the drug testing laboratory. Since specimens are sealed in packages that would indicate any tampering during transit to the laboratory and couriers, express carriers, and postal service personnel do not have access to the chain of custody forms, there is no requirement that such personnel document chain of custody for the package during transit.

5 LABORATORY ANALYSIS PROCEDURES

5.1 Security and Chain of Custody.

(a) Drug testing laboratories shall be secure at all times. They shall have in place sufficient security measures to control access to the premises and to ensure that no unauthorized personnel handle specimens or gain access to the laboratory processes or to areas where records are stored. Access to these secured areas shall be limited to specifically authorized individuals whose authorization is documented. With the exception of personnel authorized to conduct inspections on behalf of Federal or state agencies for which the laboratory is engaged in urine testing or emergency personnel (e.g., firefighters and medical rescue teams), all authorized visitors and maintenance and service personnel shall be escorted at all times. The laboratory shall maintain a record that documents the dates, time of entry and exit, and purpose of entry of authorized visitors, maintenance, and service personnel accessing secured areas.

(b) Laboratories shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage, and continuing until final disposition of specimens. The date and purpose shall be documented on an appropriate chain of custody form each time a specimen is handled or transferred, and every individual in the chain shall be identified. Accordingly, authorized technicians shall be responsible for each urine specimen or aliquot in their possession and shall sign and complete chain of custody forms for those specimens or aliquots as they are received.

5.2 Receiving.

(a) When a shipment of specimens is received, laboratory personnel shall inspect each package for evidence of possible tampering and compare information on specimen bottles within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering, or discrepancies in the information on the specimen bottles and the specimen chain of custody forms attached to the shipment, shall be immediately reported to the agency and shall be noted on the specimen chain of custody forms, which shall accompany the specimens while they are in the laboratory's possession.

(b) Specimen bottles will normally be retained within the laboratory's accession area until all analyses have been completed. Aliquots and laboratory chain of custody forms shall be used by laboratory personnel for conducting initial and confirmatory tests while the original specimen and specimen chain of custody form remain in secure storage.

5.3 Short-Term Refrigerated Storage. Specimens that do not receive an initial test within 7 days of arrival at the laboratory shall be placed in secure refrigeration units. Temperatures shall not exceed 6° C. Emergency power equipment shall be available in case of prolonged power failure.

5.4 Initial Test.

(a) The initial test shall use an immunoassay that meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

	Initial test level *(ng/mL)*
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines	1,000

(b) These test levels are subject to change as advances in technology or other considerations warrant identification of these substances at other concentrations. The agency requesting the authorization to include other drugs shall submit to the state personnel director, in writing, the agency's proposed initial test methods, testing levels, and proposed performance test program.

(c) Specimens that test negative on all initial immunoassay tests will be reported negative. No further testing of these negative specimens for drugs is permitted, and the specimens shall either be discarded or pooled for use in the laboratory's internal quality control program.

(d) Multiple initial tests (also known as rescreening) for the same drug or drug class may be performed provided that all tests meet all regulation cutoffs and quality control requirements. Examples: A test

is performed by immunoassay technique "A" for all drugs using the cutoff levels, but presumptive positive amphetamines are forwarded for immunoassay technique "B" to eliminate any possible presumptive positives due to structural analogues; a valid analytical result cannot be obtained using immunoassay technique "A," and immunoassay technique "B" is used in an attempt to obtain a valid analytical result.

5.5 Confirmatory Test.

(a) All specimens identified as positive on the initial test shall be confirmed for the class(es) of drugs screened positive on the initial test using gas chromatography/mass spectrometry (GC/MS) at the cutoff values listed in this paragraph. All confirmations shall be by quantitative analysis. Concentrations that exceed the linear region of the standard curve, shall be documented in the laboratory record as "exceeds the linear range of the test."

	Confirmatory test level *(ng/mL)*
Marijuana metabolite [note 1]	15
Cocaine metabolite [note 2]	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
6-Acetylmorphine [note 3]	10
Amphetamines:	
Amphetamine	500
Methamphetamine [note 4]	500

[note 1] Delta-9-tetrahydrocannabinol-9-carboxylic acid.

[note 2] Benzoylecgonine.

[note 3] Test for 6-AM when the morphine concentration exceeds 2,000 ng/mL.

note 4 Specimen must also contain amphetamine at a concentration ≥ 200 ng/mL.

(b) These test levels are subject to change as advances in technology or other considerations warrant identification of these substances at other concentrations. The agency requesting the authorization to include other drugs shall submit to the state personnel director in writing the agency's proposed confirmatory test methods, testing levels, and proposed performance test program.

(c) Specimens that test negative on confirmatory tests shall be reported negative. No further testing of these specimens for drugs is permitted and the specimens shall either be discarded or pooled for use in the laboratory's internal quality control program.

5.6 Reporting Results.

(a) The laboratory shall report test results to the MRO within an average of 5 working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by a certifying scientist who satisfies the requirements described by the definition in §2.3. The report shall identify the drugs/metabolites tested for, whether positive or negative, the cutoff for each, the specimen number assigned by the agency, and the drug testing laboratory specimen identification number.

(b) Except as otherwise provided by this subsection, the laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug. For amphetamines, to report a specimen positive for methamphetamine only, the specimen must also contain amphetamine at a concentration equal to or greater than 200 ng/mL by the confirmatory test. If this criterion is not met, the specimen must be reported as negative for methamphetamine.

(c) The MRO may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO may not disclose quantitation of test results, but shall report only whether the test was positive or negative.

(d) The laboratory may transmit results to the MRO by various electronic means (for example, teleprinters, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

(e) The laboratory shall send only to the MRO a certified copy of the original chain of custody form signed by a certifying scientist.

(f) The laboratory shall provide a monthly statistical summary of urinalysis testing of classified employees and shall not include in the summary any personal identifying information. Initial and confirmation data shall be included from test results reported within that month. Normally this summary shall be forwarded by registered or certified mail not more than 14 calendar days after the end of the month covered by the summary. The summary shall contain the following information:

Initial Testing:

(1) Number of specimens received;

(2) Number of specimens reported out; and

(3) Number of specimens screened positive for: marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines.

Confirmatory Testing:

(1) Number of specimens received for confirmation;

(2) Number of specimens confirmed positive for: marijuana metabolite, cocaine metabolite, morphine, codeine, phencyclidine, 6-acetylmorphine, amphetamine, and methamphetamine.

(g) Unless otherwise instructed in writing by the state personnel director, all records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of 2 years.

5.7 Long-Term Storage. Long-term frozen storage (-20 ° C or less) ensures that positive urine specimens will be available for any necessary retest.

Unless otherwise authorized in writing by the state personnel director, drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens confirmed positive. Within this 1-year period, the state personnel director may request the laboratory to retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen after the end of 1 year, except that the laboratory shall be required to maintain any specimens under legal challenge for an indefinite period.

5.8 Retesting of a Specimen (i.e., the reanalysis by gas chromatography/mass spectrometry of a specimen previously reported positive or the testing of *Bottle B* of a split specimen collection). Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

5.9 Subcontracting. Drug testing laboratories shall not subcontract and shall perform all work with their own personnel and equipment unless otherwise authorized by the state personnel director. The laboratory must be capable of performing testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine, and amphetamines) using the initial immunoassay and confirmatory GC/MS methods specified in these regulations.

5.10 Laboratory Facilities. Each drug testing laboratory used shall be licensed by an agency of the State of Michigan or any other state to conduct drug tests or shall be certified by the U.S. department of health and human services (HHS).

6 Reporting and Review of Results

6.1 Medical Review Officer Shall Review Results. An essential part of the drug testing program is the final review of results. A positive test result does not automatically identify an employee/applicant as an illegal drug user. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the MRO prior to the transmission of results.

6.2 Medical Review Officer-Qualifications and Responsibilities. The MRO shall be a licensed physician with knowledge of substance abuse disorders. The MRO shall not be an employee or agent of or have any financial interest in the laboratory for which the MRO is reviewing drug testing results. Additionally, the MRO shall not derive any financial benefit

by having the state use a specific drug testing laboratory or have any agreement with the laboratory that may be construed as a potential conflict of interest. The role of the MRO is to review and interpret positive test results obtained through the testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the donor, review of the donor's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the donor when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine specimens that are not obtained or processed in accordance with these regulations.

6.3 Positive Test Result. Prior to making a final decision to verify a positive test result, the MRO shall give the donor an opportunity to discuss the test result with the MRO. Following verification of a positive test result, the MRO shall report the result to the agency's official designated to receive results.

6.4 Verification for Opiates; Review for Prescription Medication. Before the MRO verifies a confirmed positive result for opiates, the MRO shall determine that there is clinical evidence, in addition to the urine test, of illegal use of any opium, opiate, or opium derivative (e.g., morphine/ codeine) listed in Schedule 1 or 2 of the Michigan Controlled Substances Act. This requirement does not apply if the confirmatory procedure for opiates confirms the presence of 6-monoacetylmorphine since the presence of this metabolite is proof of heroin use.

6.5 Reanalysis Authorized. Should any question arise as to the accuracy or validity of a positive test result, only the MRO is authorized to order a retest of a single specimen or the *Bottle B* specimen from a split specimen collection. Such retests may only be conducted at an authorized laboratory.

6.6 Result Consistent with Legal Drug Use. If the MRO determines there is a legitimate medical explanation for the positive test result, he or she shall take no further action and report the test result as negative.

6.7 Result Scientifically Insufficient. Additionally, the MRO, based on review of inspection reports, quality control data, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation, the MRO may request a retest of the original specimen before making this decision. (The MRO may request that the retest be performed by the same

laboratory or that an aliquot of the original specimen be sent for a retest to an alternate certified laboratory.) The laboratory shall assist in this review process as requested by the MRO by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic toxicologist or who has equivalent forensic experience in urine drug testing, to provide specific consultation as required by the agency. The MRO shall report to the state personnel director all negative findings based on scientific insufficiency but shall not include any personal identifying information in such reports.

6.8 Reporting Final Results. The MRO shall report the final results of the drug tests in writing and in a manner designed to ensure confidentiality of the information.

6.9 Availability and Disclosure of Drug Testing Information about Individual Employees.

(a) Appointing authorities shall maintain records in a secure manner, so that disclosure of information to unauthorized persons does not occur.

(b) Except as required by law or expressly authorized or required in this section, no appointing authority shall release employee information that is contained in the records required to be maintained by rule 2-7 or these regulations.

(c) An employee subject to testing is entitled, upon written request, to obtain copies of any records pertaining to the employee's drug tests. The appointing authority shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

(d) When requested by the state personnel director, each appointing authority shall make available copies of all results for appointing authority drug testing conducted under the requirements of this regulation and any other information pertaining to the appointing authority's drug prevention program. The information shall include name-specific drug test results, records, and reports.

(e) An appointing authority shall make records available to a subsequent appointing authority upon receipt of a written request from an employee. Disclosure by the subsequent appointing authority is permitted only as expressly authorized by the terms of the employee's written request.

(f) An appointing authority may disclose information required to be maintained under this regulation pertaining to an employee to that employee or to the decisionmaker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of a drug test administered under the requirements of this regulation, or from the appointing authority's determination that the employee engaged in prohibited conduct (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

(g) An appointing authority shall release information regarding an employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.

7 Prohibited Levels of Drugs and Penalties

7.1 Prohibited Levels of Drugs. A positive test result reported by the MRO shall constitute a violation of civil service rule 2-7.1(b) and shall constitute just cause for the appointing authority to discipline the donor and for the department of civil service to disqualify the donor from future state employment.

7.2 Discipline. The appointing authority shall specify, in writing, the penalty or penalties that may be imposed for a violation of civil service rule 2-7. However, an appointing authority shall immediately remove a test-designated employee from the employee's duties if the employee tests positive for drugs or otherwise violates rule 2-7.1. In addition, the department of civil service shall immediately disqualify the donor from future state employment as provided in civil service rule 2-7.4.

8 Education and Training

8.1 Required Employee Education and Training. All employees subject to civil service rule 2-7 shall be provided with educational materials that explain the state's policies and procedures with respect to meeting these requirements. This information is to be distributed to each covered employee before the start of testing under rule 2-7. The required content of this material must include:

(a) The identity of the person designated by the employer to answer questions about the educational materials.

(b) Which employees are subject to these regulations.

(c) Sufficient information to explain what the term "test-designated position" means.

(d) Specific information to explain what is prohibited by these regulations.

(e) The circumstances under which employees will be tested for controlled substances.

(f) The penalties or other consequences for an employee found to have violated provisions of civil service rule 2-7.

(g) The procedures which will be used to test employees for controlled substances, and the procedures in place to protect the employees and ensure the integrity of the testing process, safeguard the validity of the test results, and ensure that those test results are attributed to the correct employee.

(h) An explanation of the requirement that employees must submit to testing in accordance with these regulations.

(i) An explanation of what constitutes a refusal to submit and what penalties may be incurred for failure to submit to testing.

(j) Information concerning the effects of controlled substance use on an employee's health, work, and personal life; signs and symptoms of a controlled substance problem; and methods for an employee to obtain assistance if a substance abuse problem is suspected.

8.2 Required Supervisory Training. In addition to the information provided to covered employees, supervisors shall be provided with training on controlled substance use to enable them to determine when an employee should be required to submit to a controlled substance reasonable suspicion test. Such training shall include the physical, behavioral, speech, and performance indicators of probable use of controlled substances.

CONTACT

Questions regarding this regulation should be directed to the Office of the General Counsel, Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3024.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.